ORIGINAL

CV 12 4656

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

KEITH HAYWOOD, Plaintiff,	COMPLAINT UNDER TITLE 42 U.S.C.A.§1983 SEEKING INJUNCTIVE RELIEF AND PUNITIVE DAMAGES, ALONG WITH PLAINTIFF'S STATE TORT CLAIMS UNDER HIS STATE CIVIL RIGHT'S ARTICLE 1 § 6, §11 AND §12.
- against -	
PHOENIX HOUSE, LONG ISLAND CITY [L.I.C.], Defendant(s).	CV._____-_______ COGAN, J.
	TRIAL BY JURY DEMANDED

NOW COMES BEFORE THE COURT, plaintiff Keith Haywood, who alleges the following;

JURISDICTION

1. This Court has jurisdiction over these matters under 42 U.S.C.A. §1983, as well as the plaintiff's State Constitutional Law tort claims. All of the events took place within the Eastern District of New York. There are no grievance procedures at Phoenix house.

PARTIES

2. Plaintiff Keith Haywood, at all times of the allegations complained of, resided at Phoenix House located at 34-25 Vernon Boulevard, Long Island City, N.Y. 11106.

3. Defendant Phonix House at L.I.C., is a Corporation and/or incorporation set up as a residential drug treatment center, and has many such center's throughout the U.S.A.

RECEIVED
SEP 12 2012
PRO SE OFFICE

STATEMENT OF FACTS

4. During the month of September 2011, plaintiff was on parole and during an office visit, he tested positive for cocaine. Plaintiff was then ordered by his parole officer to take an out patient drug program.

5. Plaintiff went to St. Vincent, an out patient clinic, located on Rockaway Parkway, Brooklyn, New York 11236.

6. Plaintiff was treated for cocaine abuse. [nasal inhalation].

7. All plaintiff's future drug testing were negative for any drugs and treatment was successful.

8. On November 4, 2011, plaintiff reported to Brooklyn III parole office for his scheduled appearence. During the report, plaintiff was given a drug test, which came back negative for any drugs. Plaintiff was then violated for a curfew rule.

9. Plaintiff then spent the next four [4] month's on Riker's Island, until he agreed to a residential drug treatment program, for the purpose of obtaining housing and employment.

10. On March 19, 2012, plaintiff was released and picked up by an agency called cas[s]. They then transported the plaintiff and about 5 other gentlemen to the different assigned intake centers. I was taken to the East 119th Street and

third Avenue, New York, N.Y.

11. After process, plaintiff was then transferred to defendant's L.I.C. residential center [a co-ed facility], located in Queens, New York.

12. Upon entry, plaintiff was given a full screen drug test, which came back negative.

13. During an interview by one of the counselor's, it was determined that the plaintiff did not belong there, especially since he has been drug free since last year.

14. Plaintiff then informed the counselor that he was sent by parole, the counselor then stated that if your mandated here then there's nothing he or anyone could do, regardless if youblong here or not. Parole dictates your treatment here.

15. During plaintiff's stay at L.I.C., he was forced into getting welfare, whereas the plaintiff has never had welfare in his life.

16. Plaintiff was not allowed to obtain employment or seek permanate housing.

17. Plaintiff during his stay was subjected to "Peter pay Paul" treatment along with the other 218 residents, to wit, if one resident broke a rule, then the whole community suffered, by loss of weekend passes, walks to the park, no store privileges, out side privileges within the facility court yard, etc., without any type of due process or hearings

in violation of New York State Constitution and my State civil rights.

18. Plaintiff on many occassions even after making complaints, the practice still went on, where staff at this place, violated plaintiff's State Constitutional Right's to privacy, to wit without knocking on either the door to the room, or the bathroom, staff would just walk in on you deliberately, just to see what you were doing, or to catch you in some type of conduct.

19. This is a practice that they do all the time. I have been caught nude on many occassions [coming from the shower], changing into clean clothes, and I have been violated through this policy, practice, custom, of being seen "exposed" using the toilet in the private bathroom located in each room, which has no locks on the doors.

20. A reasonableprudent person would not invade other's privacy like that in a simular situation, especially when using the single toilet bathroom.

21. The custom or practice of doing this "push open" the door policy is embarrassing, brought loss of dignity, shame, and a loss of personal privacy, especially when using the bathroom. This occurred throughout the month of April 2012.

22. This created a sexual hostile living condition and environment.

23. Furthermore, illegal room searches would occur on the regular, either in your presence or outside it.

24. The defendant also had a poor visiting schedule where your family and friends could come see you. The only time was every Sunday from 1 p.m. to 4 p.m.

25. However, if someone did something wrong, or if the counselor[s] felt they were disrespected by a number of residents, the visiting day would be terminated for everyone without any type of hearing or due process, just from their peter pay paul policy and/or custom.

26. The defendant also forces you to commit welfare fraud. They assess you and determine that you don't belong there, but because parole mandated you there, they have to keep you. If you refuse to agree/or sign papers that state "voluntary" on it, you are threaten with failure to comply, to wit, you could be put back in jail once they contact your "legals" to advise them of your refusal, disagreement, and unwillingness to sign a voluntary statement form, which is a violation of your freedom of speech and censorship.

27. Plaintiff was diagnosed as abusing cocaine through inhaling. However, because the plaintiff has been drug free since 2011 of September, plaintiff was told that he didn't belong there, that this place was for people with heavy dependence on drugs.

28. Furthermore, if you were accused of a rule violation

either by staff or residential structure,[1] you were then given either a week or sometimes even a month of cleaning pots, dishes, or some other task or worse, you lost your privilege to your weekend pass without a hearing or any type of due process, in violation of the Articles of the State Constitution.

AS FOR A FIRST SEPARATE CAUSE OF ACTION

VIOLATION OF THE PLAINTIFF'S PROTECTED STATE CONSTITUTIONAL RIGHT'S AND CIVIL RIGHTS

MONELL CLAIMS

29. Plaintiff repeats the averments contained in paragraph(s) 1-28, as if fully stated herein.

30. Defendant is being sued under a Monell claim in relationship to their custom, policy, rules, regulations, bi-laws, practices, and directives, which infringed upon the plaintiff's State Constitutional Civil Rights.

31. Said policies supra, did create the following:

a). a hostile living condition in regards to plaintiffs expected privacy, while using the single toilet bathroom and dressing after a shower, without knocking first before entering these area's;

---

[1] Structure are [o]ther resident's who have moved on to the next level as overseers of the community who are given specialprivileges and can give other residents "write-ups" reports, which lead to automatic disciplinary punishment, without due process, or any typeof hearings. They also are suppose to keeplaw and order within the community.

b). peter pay for the acts of paul custom(s) in regards to punishing everyone for the actions of the few, without any type of hearing under due process of law, and if you complain about it, your threaten with the contacts of your legals for failure to comply (this includes visits, recreation, store privileges, and lounge room use, etc.);

c). punishment handed out for violating a rule, policy, supra, without any type of due process;

d). short visit hours from 1 p.m. till 4p.m. every Sunday;

e). illegal room searches in your presence or outside your presence without probable cause;

f). denying plaintiff and residents from drawing interest off their money by having a separate bank account for savings.

32. Plaintiff was subjected to these customs supra, on a regular basis.

33. Defendant knew or should have known, that they were violating the plaintiff's State Constitutional Civil Rights, which were clearly established at the time of the violation.

WHEREFORE, plaintiff Keith Haywood, is suing the defendant in the amount of ONE MILLION DOLLARS ($1,000,000.00.), for mental anguish, violation of my State Constitutional Civil Rights, and punitive damages to prevent this conduct from continuing, and whatever relief this Court deems just and proper.

AS FOR A SECOND SEPARATE CAUSE OF ACTION

INVASION OF PRIVACY CREATING A SEXUALLY HOSTILE LIVING CONDITION UNDER VARIOUS STATE LAW(S)

34. Plaintiff repeats the averments contained in paragraphs 1-28, and 30-33 of the First Separate Cause of Action.

35. Defendant employees did on numerous times throughout April 2012, pulled open the bathroom door, without knocking or annoucing themselves, to wit, catching this plaintiff sitting nude from the waist down, using the bathroom, and twice catching the plaintiff in the process of wiping himself clean.

36. Defendant employees did on numerous times push open the room door to plaintiff's private living quarters without knocking first, catching the plaintiff fully nude, either in the process of drying off or in the process of putting his leg through his under wear garments trying to get dressed.

37. Defendant knew or should have known that their policy, custom supra, violated the plaintiff's clearly established and protected State Civil Rights.

38. Defendant's conduct through their employees, caused this plaintiff to be shamed, embarrassed, humiliated, demeaned, violated sexually, and nervous about using the

bathroom and putting a chair in the door to block it from opening, when coming out of the shower.

39. Defendant's employees conduct, caused this plaintiff to hold his bowels during the day, causing pain, in order to use the bathroom during the late night hours.

WHEREFORE, plaintiff Keith Haywood, is suing the defendant in the amount of TWO MILLION DOLLARS ($2,000,000.00) for mental anguish, past sufferings through this sexual harrassment and invasion of privacy, and punitive damages to prevent this type of custom supra from continuing, and whatever relief this Court deems just and proper.

AS FOR A THIRD SEPARATE CAUSE OF ACTION

42 U.S.C.A. §1983
INJUNCTIVE RELIEF
PUNITIVE DAMAGES

40. Plaintiff repeats the averments contained in paragraph(s) 1-28, 30-33 of the First Separate Cause of Action, and 35-39 of the Second Separate Cause of Action as if fully stated herein.

41. Plaintiff seeks a permanate injunction enjoining the defendant from continuing the following;

a). accepting, housing, any potential resident whom does not need intensive drug treatment;

b). accepting, housing, any potential resident whom is not dependent upon a drug;

c). accepting, housing, any potential resident who should be refered to an out patient program;

d). accepting, housing, any potential resident who is sent by parole just because "parole sent you," we have to house you and collect welfare;

e). forcing residents to sign a "voluntary" document, with the threats of failure to comply;

f). denying a resident from opening a savings account to collect interest on their money;

g). enjoining defendant from handing down illegal punishments, or peter pay for paul type of punishments, without due process of law by a hearing or judged by their peers within the residential community, with an appeal process of some type;

h). enjoining the defendat from opening the bathroom doors or private room doors without first knocking;

i). enjoining the defendant from conducting illegal searches, without probable cause;

j). requiring the defendant to expand their visiting days for both Saturday and Sunday from 1 p.m. to 4 p.m., instead of just Sunday;

k). requiring the defendant to allow the residents to go on weekly passes, instead of bi-weekly passes;

l). requiring the defendant to allow those on parole, to enjoy their curfew they would normally have from 7am to 9pm, for friday through Sunday, at minimum;

42. Without the permanent injunction, the defendant will continue to abuse, mistreat, or practice their customs supra on all present and future client's in their care, in violation of the patient's bill of right's under the N.Y.S. Public Health Law.

WHEREFORE, plaintiff Keith Haywood, will seek a permanent injunction for the relief sought and requested herein for the reasons stated, and punitive damages in the amount of TWO HUNDRED THOUSAND DOLLARS ($200,000.00.), for punitive damages to prevent this type of conduct from continuing, and the past conduct of the defendant, who's policy, customs, etc, that caused the plaintiff mental anguish in the past while a resident there, and whatever relief this Court deems just and proper.

AS FOR A FOURTH FINAL SEPARATE CAUSE OF ACTION

DOCTRINE OF RES ISPA LOQUITUR

43. Plaintiff repeats the averments contained in paragraph(s) 1-28, 30-33 of the First Separate Cause of Action, 35-39 of the Second Separate Cause of Action, and the entire Third Separate Cause of Action, as if fully stated herein.

44. plaintiff is further suing the defendant under the doctrine of res ipsa loquitur.

45. Plaintiff will sue the defendant for past mental anguish, past mental duress for the privacy issue, and punitive damages.

WHEREFORE, plaintiff Keith Haywood, is suing the defendant in the amount of TWO MILLION DOLLARS ($2,000,000.00) for past mental anguish, past mental duress and punitive damages, and whatever relief this Court deems just and proper.

Dated: August 4th, 2012
Bronx, New York

KEITH HAYWOOD, #141-12-07248
Plaintiff, pro se.
OBCC/ANNEX 1-North 15
1600 Hazen Street
East Elmhurst, N.Y. 11370

PLEASE TAKE NOTICE, that the plaintiff has incorporated all of his State Constitutional Right's in every Separate Cause of Action, under Article 1 § 6, §11 and §12 of said New York State Constitution and Civil Rights.